

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7012

BILL NUMBER: SB 352

NOTE PREPARED: Feb 23, 2009

BILL AMENDED: Feb 17, 2009

SUBJECT: Rioting at Penal Facilities.

FIRST AUTHOR: Sen. Bray

FIRST SPONSOR: Rep. Tincher

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill makes rioting a Class D felony instead of a Class A misdemeanor if the offense is committed in or on the premises of a state prison, a correctional facility, a county jail, a penitentiary, a house of correction, or any other facility for confinement of persons under sentence, awaiting trial, or awaiting sentencing, if the rioting affects the security of the penal facility.

Effective Date: July 1, 2009.

Explanation of State Expenditures: State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail. A Class D felony is punishable by a prison term ranging between six months to three years or reduction to Class A misdemeanor. The period of incarceration will depend upon mitigating and aggravating circumstances.

The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost per offender for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily. The estimated average cost of housing a juvenile in a state juvenile facility was \$69,223. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Background- Under current law, rioting is a Class A misdemeanor or a Class D felony if it committed while armed with a deadly weapon. The bill would add to the Class D felony rioting committed in or on the premises of a penal facility. In a one-day snapshot of the prison population on September 2, 2008, there were

two offenders convicted of rioting as a Class D felony. These offenses were among multiple charges against the offenders and did not necessarily occur in a penal facility.

Explanation of State Revenues: More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

Explanation of Local Expenditures: If an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. The maximum term of imprisonment for a Class A misdemeanor is up to one year. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

Explanation of Local Revenues: Court fees for both misdemeanors and felonies are \$120.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association.

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